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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

- - -

UNITED STATES OF AMERICA, ex rel.)
DILBAGH SINGH, M.D., PAUL KIRSCH,)
M.D., V. RAO NADELLA, M.D.,)
and MARTIN JACOBS, M.D.,)

Relators,)

vs.)

BRADFORD REGIONAL MEDICAL CENTER,)
V&S MEDICAL ASSOCIATES, LLC,)
PETER VACCARO, M.D., KAMRAN SALEH,)
M.D., and DOES I through XX,)

Defendants.)

Civil Action
No. 0-4-186E

- - -

DEPOSITION OF GEORGE LEONHARDT
TUESDAY, APRIL 1, 2008

Deposition of GEORGE LEONHARDT, called as a
witness by the Relators, taken pursuant to Notice of
Deposition and the Federal Rules of Civil Procedure,
by and before Carla L. Lennartz, a Court Reporter and
a Notary Public in and for the Commonwealth of
Pennsylvania, at the offices of Horthy Sprinter, 4614
Fifth Avenue, Pittsburgh, Pennsylvania, commencing at
10:00 a.m. on the day and date above set forth.

- - -

1 APPEARANCES:

2 On behalf of the Relators:

3 Simpson Law Firm, LLC
4 G. Mark Simpson, Esquire
5 165 North Main Street
6 Jonesboro, Georgia 30236

7 and

8 Stone Law Firm
9 Andrew M. Stone, Esquire
10 1400 Allegheny Building
11 Pittsburgh, Pennsylvania 15219

12 On behalf of the Defendant Bradford Regional Medical
13 Center:

14 Harty Springer
15 Dan Mulholland, Esquire
16 4614 Fifth Avenue
17 Pittsburgh, Pennsylvania 15213

18 On behalf of the Defendants V&S Medical Associates,
19 LLC, Peter Vaccaro, M.D. and Kamran Saleh, M.D.:

20 Fox Rothschild
21 Carl J. Rychcik, Esquire
22 625 Liberty Avenue
23 Pittsburgh, Pennsylvania 15222

ALSO PRESENT:

Ian M. Donaldson

- - -

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PROCEEDINGS

GEORGE LEONHARDT,

called as a witness by the Relators, being first duly
cautioned and sworn, as hereinafter certified, was
deposed and said as follows:

EXAMINATION

BY MR. SIMPSON:

Q. Mr. Leonhardt, my name is Mark Simpson. I

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realize you've already given a 30(b)(6) deposition in
this case so I imagine you're familiar with the
procedures here; correct?

A. Yes, I am.

Q. If anything I say is hard to understand or if
you have any questions about my questions, please feel
free to let me know; and even though today is April
1st, you still have to tell the truth.

I'm going to try not to duplicate a lot of
stuff that was gone over the last time; but if I do a
little bit, bear with me.

When did you first become concerned about the
possibility of V&S installing a nuclear camera at
their facility?

A. I believe it was early in April of 2001.

Q. And you might have mentioned this before; but
do you know how it was you first became aware that
they were considering that?

A. Somebody told me. I honestly don't remember
who.

Q. And was that before they actually got the
camera?

A. Yes, it was sometime before they got the

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1 camera.

2 Q. What were your primary concerns with V&S
3 getting a nuclear camera?

4 A. I've gone over this before, but the impact that
5 that would have on the hospital's plans to develop a
6 full-time cardiology service.

7 Q. And maybe let me see if I can summarize it and
8 then you could tell me if there's any more concerns.

9 One concern you had was with the impact on
10 developing a cardiology practice?

11 A. Yes.

12 Q. Would another concern be just a loss of the
13 nuclear medicine revenues that previously -- that the
14 hospital previously had gotten from V&S referrals?

15 MR. MULHOLLAND: Just object to the
16 characterization to the extent it doesn't
17 reflect what's already in the record; but he
18 can answer the question.

19 A. Well, sure, there was some concern about that;
20 but the major concern was the impact on our plans to
21 develop that service.

22 Q. Were you also concerned with the loss of other
23 diagnostic tests that might go along with a test

1 performed on a nuclear camera, follow-up tests, things
2 like that?

3 A. Yeah, probably to some extent.

4 Q. What was it about V&S's establishment of the
5 nuclear camera that you believed would impact your
6 ability to establish a cardiology program?

7 A. Well, nuclear cardiology is a key portion of
8 any diagnostic cardiology service; and if a key
9 practice in the community is going to have a financial
10 incentive not to use the community cardiology service,
11 it's going to have an impact and especially an impact
12 if we're only just trying to establish that and, you
13 know, trying to convince a cardiologist this is a good
14 place to come and work.

15 Q. Well, would the impact extend farther than
16 simply the nuclear business that let's say V&S is
17 taking away from the hospital?

18 A. I'm not sure I understand where you're trying
19 to take that question.

20 Q. Previously, before they got the nuclear camera,
21 V&S had been referring a great deal of nuclear
22 cardiology business to the hospital; correct?

23 A. Correct.

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1 Q. After they established the camera, all or a
2 significant portion of that business was no longer
3 going to the hospital; correct?

4 A. Correct.

5 Q. Because they were doing it in-house?

6 A. Correct.

7 Q. So the hospital was losing that business, that
8 discrete set of business; correct?

9 A. That's correct.

10 Q. When you were talking about the impact on
11 establishing a cardiology program, is that impact more
12 than simply the fact that you have lost this nuclear
13 cardiology business?

14 A. I'm really sorry. Are you asking -- well --

15 Q. The loss of that nuclear cardiology business,
16 is that the negative impact you're talking about on
17 the cardiology program?

18 A. Yes; and the question and the concern we had
19 was would that be the kind of barrier that would
20 actually prevent us from establishing a cardiology
21 program which would have a much broader impact on the
22 community.

23 Q. What is involved in establishing a cardiology

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1 program at a hospital, at your hospital in particular?

2 A. Well, at our hospital in particular, at that
3 point in time we did not have a full-time
4 cardiologist. We did have a visiting cardiologist
5 coming from Erie, which is about 90 miles away, a
6 couple of days a month and essentially operating a
7 clinic. Not having a full-time cardiology service had
8 an impact on the quality of diagnostics that we could
9 offer the patients in that community. It had an
10 impact on the quality and the type of care that
11 patients in that community would receive if they had
12 an acute cardiac problem. It had an impact on the
13 overall service to people with high blood pressure,
14 cardiac disease.

15 The introduction of an expert, a specialist, in
16 an area of medicine in a community like that has a
17 very broad impact on the kind of care that people
18 receive, even if it's care that they receive from a
19 physician other than the cardiologist simply because
20 it just raises the bar for everybody.

21 Q. Setting up a cardiology practice in a hospital,
22 does that primarily involve hiring a full-time
23 cardiologist or is there more to it?

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1 A. There's more to it.

2 Q. But is hiring a full-time cardiologist the
3 principal step in establishing a cardiology practice?

4 A. Yes.

5 Q. What other steps are there?

6 A. Obtaining staff with the expertise to support
7 the cardiologist's services; building the practice
8 itself; building the diagnostic capabilities that a
9 cardiologist is going to need in order to practice his
10 profession or her profession; building the support
11 systems so that the individuals, patients, can be
12 taken care of when they're unavailable or on vacation.

13 Q. Where generally do cardiology patients come
14 from? Do they come from referrals from other
15 physicians in the community or do they come from
16 hospital inpatients?

17 A. Some combination of all those things.
18 Self-referrals, referrals from family members,
19 referrals from physicians in the community.

20 Q. Is it fair to say that your primary concern
21 about the impact of V&S's nuclear camera is that it
22 would make it more difficult for you to hire a
23 full-time cardiologist?

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1 A. That was a primary concern, yes.

2 Q. Why did you believe that it would be more
3 difficult to hire a full-time cardiologist if V&S had
4 their nuclear camera?

5 A. If we're trying to convince a full-time
6 cardiologist to come to that community, that
7 individual is going to have a series of questions, you
8 know, can you support the practice, where are the
9 patients going to come from, are the physicians in the
10 community going to support the development of this
11 practice; and to the extent that a key practice has a
12 financial reason not to support the development of
13 that service, that's going to make it more difficult.

14 Q. So basically if V&S is not referring patients
15 to the hospital, the concern is that a cardiologist
16 would not believe that the hospital would be able to
17 have enough business to make it worth his while?

18 A. It's not even whether V&S is referring patients
19 to the hospital. It's whether V&S or any practice
20 would have a reason to not refer patients to the
21 cardiologist.

22 Q. But we're only talking about V&S here; right?

23 A. Yeah, we're talking about V&S here.

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1 Q. Were there other practices that were in the
2 area that would otherwise refer to the hospital who
3 were establishing their own nuclear cardiology
4 practice?

5 A. There were other practices in the area that
6 were pretty much saying that if V&S continued this
7 they would do it as a matter of making their practices
8 equally attractive to patients.

9 Q. Who were those? Who was saying that?

10 A. Dr. Singh, Dr. Nadella, Dr. Kirsch. I believe
11 Dr. Armani (phonetic) talked about it, also.

12 Q. Did any of those actually establish -- did any
13 of those actually obtain their own nuclear cameras?

14 A. In conjunction with another regional hospital,
15 yes.

16 Q. At the time when V&S was deciding whether to
17 acquire this nuclear camera or during the period when
18 they actually had it, was the hospital in discussions
19 with any particular cardiologist about joining the
20 hospital?

21 A. Yes, we were in discussions with a number of
22 recruits.

23 Q. Okay. Can you give me the names of all the

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1 ones you can remember?

2 A. I can't remember their names now. I could look
3 them up for you.

4 Q. Can you remember any of their names?

5 A. Other than the one we ultimately got, I'm
6 sorry, no.

7 Q. Who did you ultimately get?

8 A. Steven Herman.

9 Q. When did you hire him?

10 A. December of 2005, I believe.

11 Q. So you didn't have a full-time cardiologist
12 until December of 2005?

13 A. That's correct.

14 Q. That was more than two years after you entered
15 into the sublease agreement with V&S; is that right?

16 A. That's right.

17 Q. Why did it take that long to hire a
18 cardiologist?

19 A. I think a combination of reasons. One is it's
20 a relatively small, rural community. We had to find
21 someone who met our standards as far as setting up a
22 program and looking for someone who was particularly
23 qualified. In addition, we had to find someone who

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1 liked the idea of being the first cardiologist in a
 2 community, having to establish all the services and
 3 programs. That's really quite a challenge; and it was
 4 not easy to find that combination of desire to live in
 5 a small town, desire to be the first one to build
 6 something as opposed to coming into an established
 7 practice, a willingness to come into a community and
 8 not have three or four other people in the same
 9 specialty supporting what you were doing, sharing call
 10 with you. So it was not easy to find someone.

11 Q. So it's fair to say that even without the
 12 concern of a practice having their own nuclear imaging
 13 business that it is still very difficult to find a
 14 full-time cardiologist and set up a cardiology program
 15 at your hospital?

16 A. Yeah. We were looking at what we thought was
 17 going to be a significant challenge under the best
 18 circumstances.

19 Q. And when you say the best of circumstances,
 20 that includes V&S not being in the nuclear cardiology
 21 business?

22 A. That's correct.

23 Q. What was your understanding of how V&S was

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1 using its nuclear camera? They were using it for
 2 their own patients; correct?

3 A. Correct.

4 Q. Was V&S a large enough referral source to the
 5 hospital that the loss of their business alone you
 6 believed constituted a serious impediment to getting a
 7 full-time cardiologist onboard?

8 A. They were a significant referral source; and
 9 so, yes, given everything else I've said, I thought it
 10 was a significant impediment.

11 Q. Now, once V&S got their camera in place, your
 12 nuclear cardiology referrals from V&S went down;
 13 correct?

14 A. Yes, they did.

15 Q. Did your referrals from other physicians stay
 16 unaffected?

17 A. They stayed pretty much the same, I believe.

18 Q. Now, at some point you started discussions with
 19 V&S about the possibility of entering into some kind
 20 of an Under Arrangements venture; is that correct?

21 A. We started discussions with essentially the
 22 whole medical staff about entering into some kind of
 23 Under Arrangements discussion.

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1 Q. But those discussions were triggered by the
 2 hospital's dispute with V&S; correct?

3 A. Not really. They were contemporaneous and they
 4 certainly involved our dispute and discussions with
 5 V&S.

6 Q. Would you have had those same discussions if
 7 V&S had not installed their own nuclear camera?

8 A. I believe we would have had discussions along
 9 those lines because we were very interested in, you
 10 know, finding ways to align incentives with the
 11 medical staff to the building of diagnostic services
 12 and the cardiology program in particular and had
 13 actually started conversations about that before we
 14 knew what V&S was doing.

15 Q. You had started conversations?

16 A. Internally about what would -- what kind of
 17 alternatives would there be, what kinds of
 18 opportunities for joint ventures might there be that
 19 could align particularly the department of medicine
 20 with some of the developmental programs that we wanted
 21 to start, cardiology being a key one.

22 Q. Do you know a Dr. Jamil?

23 A. Yes, I do.

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1 Q. And he at some point became affiliated with
 2 V&S; is that correct?

3 A. He at some point began to rent space in V&S's
 4 office, yes.

5 Q. Was he a significant referral source to the
 6 hospital as well?

7 A. Yes, he was.

8 Q. And you were concerned, were you not, that if
 9 you lost V&S's business you would also lose Dr.
 10 Jamil's business?

11 A. I entertained that concern, yes.

12 Q. Before V&S installed the nuclear camera, did
 13 you have discussions with Dr. Jamil about your desire
 14 to keep V&S out of the diagnostic business?

15 A. I had discussions with Dr. Jamil about the
 16 impact that I thought that would have on our ability
 17 to develop a cardiology program. So I don't believe
 18 it was before I knew about what V&S was doing.

19 Q. Did you try to enlist Dr. Jamil as an ally to
 20 convince V&S not to get into the diagnostic business?

21 A. Dr. Jamil offered himself as not an ally but a
 22 go-between.

23 Q. Were Drs. Vaccaro and Saleh aware of your

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discussions with Dr. Jamil in this regard?

A. From what he told me they were, yes.

Q. You didn't raise the issue with Vaccaro and Saleh? You didn't inform Drs. Vaccaro and Saleh that you having those kinds of discussions with Dr. Jamil; correct?

A. Not before I had them. They became aware of that when he spoke to them.

Q. Now, the hospital's dispute with V&S involved a hospital policy against -- or a hospital policy regarding physicians having competing interests with the hospital; correct?

A. Correct.

Q. And one of the hospital's options under that policy -- or, excuse me. Is it fair to describe the policy as essentially saying that the hospital could deny privileges to physicians who had competing interests?

A. No. The policy laid out a number of possibilities; and the ultimate outcome could have been -- if it was determined that that competing interest was significant and doing significant damage to the hospital's ability to maintain its mission,

could have been denial of privileges.

Q. Under that policy, would the hospital have discretion to essentially ignore the issue and allow the doctors to retain their privileges?

A. In fact, the policy makes it pretty clear that unless the competition was damaging to the hospital's ability to maintain its mission, that's exactly what would happen.

Q. But if the competition is determined to be damaging to the hospital, does the policy require the loss of privileges or is that discretionary with the hospital?

A. It's discretionary with the board of directors of the hospital.

Q. Okay. Now, Drs. Vaccaro and Saleh were not simply -- they didn't simply refer patients to the hospital for nuclear tests, they also referred inpatients and other outpatient tests; is that correct?

A. That's correct.

Q. And they were a significant source of referrals to the hospital in those areas, too; correct?

A. That's correct.

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Q. Did you ever intend to actually follow through on a threat to revoke Dr. Vaccaro's and Saleh's privileges or was that simply a negotiating tactic?

MR. MULHOLLAND: Just object to the form of the question as compound.

Q. Do you understand the question?

MR. MULHOLLAND: Maybe if you ask it separately.

A. Yeah.

Q. You informed Drs. Vaccaro and Saleh that they were subject to losing their privileges because of their competition with the hospital; correct?

A. We informed them that they were subject to that policy.

Q. Did you intend to make them believe that if push came to shove the hospital would actually invoke the policy and rescind their privileges?

A. We never got to the point of having to make that decision. I think you're asking me to speculate as to whether we would have done that or not; and the answer to that is that we took the policy very seriously and we were very seriously considering that as a possible outcome.

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Q. I'm not asking to you speculate. I'm asking about your intent.

Was it your intention to convey to the doctors that this was not simply an empty threat but that you actually might follow through with it and revoke their privileges?

A. You're talking not about the hospital's intention or the board's intention, you're talking about my individual --

Q. I'll start with your intention.

A. My intention was that it was a very serious possibility. I did not view it as a negotiating tactic or an empty threat.

Q. Do you have any knowledge that the board viewed it otherwise?

A. No, I have no knowledge that any individual on the board viewed it otherwise.

Q. Do you have any knowledge that any other decision-makers at the hospital viewed it otherwise?

A. No.

Q. Did you ever acknowledge that it would be suicidal to actually invoke the policy and terminate the physicians' privileges?

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1 A. I certainly acknowledged that it would be
2 damaging and very damaging. I don't know that I ever
3 thought of it as suicidal.

4 Q. If you actually terminated their privileges,
5 you would probably lose all of their outpatient
6 referrals or a significant portion of the outpatient
7 referrals; correct?

8 A. That's correct.

9 Q. And you would lose all of their inpatient
10 referrals; correct?

11 A. That's correct.

12 Q. And you acknowledge that the results of such
13 action would be extremely damaging to the hospital;
14 correct?

15 A. That's correct. We, in fact, analyzed that
16 pretty carefully and thought that we could recover
17 from it but it would probably take us four or five
18 years.

19 Q. Did Dr. Vaccaro and Saleh's attorneys ever take
20 the position with you that the hospital's actions were
21 attempts to extort an exclusive referral stream?

22 A. There were a number of letters back and forth
23 between the hospital's attorneys and attorneys for

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1 Drs. Vaccaro and Saleh. I think in some of their
2 letters they did take that kind of position.

3 Q. Did you think they were sincere in taking that
4 position?

5 A. I didn't agree that that was what was
6 happening. So no.

7 Q. I understand that you didn't -- that you're
8 saying you didn't agree that that was what was
9 happening; but did you believe that Drs. Vaccaro and
10 Saleh and their attorneys believed that the hospital
11 was trying to extort an exclusive referral stream?

12 MR. MULHOLLAND: I'll just object to the
13 extent you're asking him to testify about
14 somebody else's state of mind.

15 Q. I'm asking you to testify as to what you
16 believed about their state of mind.

17 MR. MULHOLLAND: Again, same objection.

18 But you can answer if you're able to.

19 A. I don't know the answer to that.

20 Q. Did you think they were blowing smoke or did
21 you think that they meant it?

22 A. During that whole period of time there were any
23 number of times when I didn't know whether they were

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1 blowing smoke or whether they meant it on any number
2 of issues.

3 Q. Was that an accusation that you took seriously?

4 A. I didn't believe that that's what we were
5 doing, no.

6 Q. Did you take the accusation seriously?

7 MR. MULHOLLAND: Which accusation are you
8 talking about?

9 MR. SIMPSON: The accusation that the
10 hospital was trying to extort an exclusive
11 referral stream.

12 A. Sure. Yes.

13 Q. Did that accusation cause you to change in any
14 way your approach with the physicians?

15 A. No.

16 (Leonhardt Deposition Exhibit No. 1 was
17 marked for identification.)

18 Q. Mr. Leonhardt, I've shown you what's been
19 marked as Exhibit 1; and I'll ask you to look at that
20 document and let me know if you recognize it.

21 Have you had a chance to look at the document?

22 A. Yeah. I'm sorry, I'm finishing reading it.

23 Q. Do you recognize this document?

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1 A. Yes, I do.

2 Q. Is this a document that you prepared?

3 A. Yes, it is.

4 Q. Did you prepare it on October 11th, 2001?

5 A. Probably a little before that.

6 Q. Around that time?

7 A. Around that time.

8 Q. What was the purpose of this document?

9 A. It was to put my thoughts together for a
10 meeting with the board executive committee.

11 Q. Did you routinely prepare documents like this
12 before you would have board meetings?

13 A. On occasion if I thought the issue was a
14 complex one and it was a combination of trying to
15 organize my own thinking and provide the individual I
16 was talking with with an outline, a background.

17 Q. Now, did you say this was done in preparation
18 for a board meeting or a committee meeting?

19 A. It was done in preparation for a committee
20 meeting.

21 Q. Do you know which committee?

22 A. The board executive committee.

23 Q. What was the purpose of that meeting or what

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1 was to be discussed at that meeting?

2 A. There would have been any number of issues
3 discussed at that meeting, but this would have been
4 one of them.

5 Q. I guess I'm asking what is "this" when you say
6 "this"?

7 A. Our prior discussions with Dr. Jamil, his
8 relationship with Drs. Vaccaro and Saleh, the extent
9 to which that was impacting or could impact either
10 positively or negatively our attempts to address that
11 situation with Vaccaro and Saleh.

12 Q. When did they add the nuclear camera; do you
13 know?

14 A. Spring or summer of 2001.

15 Q. If you could look in the middle of the first
16 page where it says, "We discussed the impact on the
17 hospital should they try to add diagnostics,
18 especially with his volume." When you say
19 "diagnostics," are you talking about the nuclear
20 camera or are you talking about something else?

21 A. This was referring to conversations I had had
22 with Dr. Jamil more than a year prior to that and I
23 wasn't aware of any specific diagnostics. That just

1 was an overall concern.

2 Q. So that sentence that I just read is referring
3 to discussions that had taken place a year earlier
4 than when you prepared this memo; correct?

5 A. Yeah, or sometime earlier than when I prepared
6 this memo.

7 Q. And those discussions were before V&S actually
8 got their nuclear camera?

9 A. Yes.

10 Q. And were those discussions before you became
11 aware of their interest in getting a nuclear camera?

12 A. Yes.

13 Q. So even before you heard scuttlebutt about them
14 getting a nuclear camera, you were concerned about V&S
15 adding diagnostics; correct?

16 A. Correct.

17 Q. The next sentence says, "He assured me that
18 this wouldn't happen. He understood the negative
19 impact and would prevent it."

20 What did you mean by Jamil saying that he would
21 prevent it?

22 A. He told me he would have influence with them
23 and would prevent that from happening.

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1 Q. Was there any quid pro quo that you offered or
2 the hospital offered to Dr. Jamil for that?

3 A. No.

4 Q. Do you know his reasons for wanting to prevent
5 it?

6 A. He thought it would be damaging to the hospital
7 and to the development of clinical services.

8 Q. Now, over time as the -- I guess as the dispute
9 between the hospital and V&S ripened, did Dr. Jamil
10 come more to take V&S's side in the dispute?

11 A. No, I don't really believe so. I think he came
12 to kind of withdraw from it, didn't want to be in the
13 middle of the conflict.

14 Q. If you could look at the second page under the
15 heading saying Approach. It says, "With that as
16 background, the risk that Dr. Jamil will decide to
17 formally become a business partner of V&S - if he
18 hasn't already - and therefore make it suicidal for
19 the Medical Center to enforce its Policy regarding
20 competition by denial of privileges is significant."

21 Now, in that paragraph are you recognizing that
22 enforcing the policy by denying privileges would be
23 suicidal for the hospital?

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1 A. Well, I think what I say here is that if Dr.
2 Jamil decides to become formally a business partner of
3 V&S, which we didn't know whether he had or hadn't,
4 that makes it even more damaging. I did use the word
5 suicidal.

6 Q. It was always your assumption that Dr. Jamil
7 would follow V&S essentially and if you lost their
8 referrals that his referrals would follow?

9 A. No, it wasn't my assumption. It was always my
10 opinion that we had to consider that as a possibility.

11 Q. Did you consider that that was a likely result
12 or an unlikely result?

13 A. I didn't know how to evaluate how likely or
14 unlikely that was. I considered it a risk.

15 Q. Now, at the bottom of page two and then
16 following on page three, it looks like you're
17 discussing two possible approaches to take with Dr.
18 Jamil; is that correct?

19 A. Yeah.

20 Q. And is it fair to state that the direct
21 approach would be to tell him that you're interested
22 in purchasing his practice?

23 A. No, I don't think so.

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1 Q. A direct approach?

2 A. I'm sorry?

3 Q. Under number one at the bottom of page two, it
4 says, "A direct approach stating that we remain
5 interested in purchasing his practice and bringing in
6 a high quality replacement."

7 A. We actually had never expressed an interest in
8 purchasing his practice. We had expressed an interest
9 in assisting someone who would replace him in
10 purchasing a practice.

11 Q. But here you are discussing the idea of telling
12 him that you're interested in purchasing his practice?

13 A. Yes, but I say "we remain interested"; and what
14 we had been interested in historically is acting as --
15 in role as assisting a physician coming in to acquire
16 his practice. So my guess is I just wasn't precise.

17 Q. Is it fair to state that the end result you
18 were looking for in either this direct approach or the
19 indirect approach is to prevent Dr. Jamil from
20 becoming a business partner with V&S?

21 A. Correct.

22 Q. And you wanted to do that because if V&S added
23 the -- well, at this point they already had. You

1 wanted to avoid the result of losing Dr. Jamil's
2 business as well as V&S's business?

3 MR. MULHOLLAND: Just for clarification,
4 when you're asking him questions directed to
5 him as "you," you're asking George Leonhardt as
6 an individual; correct?

7 MR. SIMPSON: Yes.

8 Q. I'm asking you as CEO of the hospital and an
9 individual. I'm not asking -- unless I say, I'm not
10 asking about what other people on the board might have
11 thought.

12 MR. MULHOLLAND: You're not asking him for
13 what the corporation's opinions are as opposed
14 to asking him as an individual who happens to
15 be CEO of the hospital?

16 MR. SIMPSON: Well, who happens to be CEO
17 of the hospital and taking actions in that
18 capacity.

19 MR. MULHOLLAND: I just want to clarify
20 this is an individual deposition.

21 MR. SIMPSON: I'm not taking a 30(b) (6)
22 deposition.

23 MR. MULHOLLAND: Go ahead.

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1 A. I forgot the question.

2 Q. I did, too. Actually, I think I remember. I
3 think I asked you the end result of either one of
4 these approaches that you were hoping to get out of
5 these approaches was to prevent him from formally
6 partnering up with V&S because you didn't want to lose
7 his business as well as theirs?

8 A. That's correct.

9 Q. If you could look at the I guess first full
10 paragraph at the top of page three, still talking
11 about the direct approach; and it says, "The risk here
12 is obvious, we are asking him to reverse and while he
13 may be unhappy, he may be unwilling to do that.
14 Should he be unwilling, we will have immediately given
15 V&S a road map to our greatest worry (one they
16 probably already have)."

17 First, what are you referring to there as your
18 greatest worry?

19 A. Exactly what you referred to a moment ago, that
20 the dispute would suddenly become one not just with
21 Vaccaro and Saleh but with Vaccaro, Saleh and Jamil.

22 Q. And then in paragraph two you say, "A more
23 indirect approach." Then it says, "We do not wish to

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1 have to invoke the Policy but our overtures to V&S are
2 ignored or responded to by threats of full diagnostic
3 centers, surgery centers, etc"; and then it goes on.

4 What were you talking about in that paragraph
5 as an indirect approach? What were you proposing to
6 do?

7 A. I think I go on to say that, ask him if he has
8 any influence and can he exert any influence.

9 Q. Is it fair to describe the indirect approach as
10 raising the possibility of invoking the policy by
11 excluding privileges but you recognize that it would
12 be suicidal to do so but you don't want V&S to know
13 that you recognize it as being suicidal?

14 A. No. I think more simply than that it's, you
15 know, does he feel he's in a position to influence and
16 help to resolve this dispute.

17 Q. What you were talking about there is using the
18 threat to invoke the policy as leverage to obtain some
19 other resolution?

20 A. Again, I think what I'm talking about is trying
21 to determine if Dr. Jamil feels he has any ability to
22 influence or, if he has an ability, any willingness to
23 try to influence this situation.

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1 Q. And then it says, "This is an initially less
2 risky approach but gets very tricky if he responds
3 indicating he would want to mediate."

4 Why would it get tricky if he says he does want
5 to mediate?

6 A. You're just introducing another party.

7 Q. But that's what you were hoping to achieve;
8 wasn't it?

9 A. What I was doing was laying out what I saw as
10 possible courses of action. It doesn't mean that they
11 were the right courses. It doesn't mean they were the
12 ones chosen but --

13 Q. In the very last paragraph it says, "My
14 conclusion from all of this is that I should approach
15 Dr. Jamil, the approach should be indirect."

16 So your I guess recommendation is to take this
17 indirect approach to Dr. Jamil; correct?

18 A. Correct.

19 Q. So were you wanting -- did you want him to
20 respond, yes, I'll mediate, or, no, I don't want to
21 mediate?

22 A. I wouldn't have asked him if I didn't want him
23 to respond that yes, he would.

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1 Q. So when you say it gets very tricky, you're not
2 saying that's an undesirable result?

3 A. No, just a complex one.

4 Q. Okay. I know you discussed this in your prior
5 deposition so I don't want to go into detail; but over
6 a course of a period of time, you had discussions with
7 V&S about the possibility of an Under Arrangements
8 venture; correct?

9 A. That's correct.

10 Q. And what were the primary sticking points to
11 those negotiations?

12 A. With V&S or with all the physicians involved?

13 Q. Whatever sticking points would prevent the
14 Under Arrangements concept from being finalized.

15 A. There were discussions about how to evaluate
16 the kinds of returns that investors might receive in
17 this kind of an arrangement. There were discussions
18 about how many investors would be invited, who they
19 would be. At one point or another, all those issues
20 were to one degree or another sticking points.

21 Q. Did V&S have any particular sticking points?

22 A. We ended up with an agreement with V&S that
23 they would participate in that kind of an arrangement;

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1 but during the negotiations, there were sticking
2 points about what the return would be, how returns to
3 individual investors would be determined, the size of
4 investment opportunities that would be available to
5 various investors and who the participants would be.

6 Q. All of these -- I guess all of these are issues
7 that you and V&S were discussing not involving other
8 physicians?

9 A. I was having those same discussions with mostly
10 the same issues with any number of other physicians.

11 Q. But for whatever reason, the Under Arrangements
12 concept never came about?

13 A. At the end of the day, the final sticking
14 point, the one that didn't go away, was on behalf of
15 -- or was a sticking point with physicians other than
16 V&S in that they wouldn't participate in an
17 arrangement that V&S was part of.

18 Q. So was it your opinion that except for that one
19 sticking point you would have had a final deal with
20 V&S, that V&S would have been onboard with the Under
21 Arrangements concept?

22 A. Yes.

23 Q. Did you ever have a dispute with V&S about how

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1 much credit they should get for the contribution of
2 their nuclear camera to the Under Arrangements
3 venture?

4 A. We had negotiations with them about that, yeah.

5 Q. Did you ever come to a final number on that
6 issue?

7 A. I don't remember the answer to that. I'm
8 sorry.

9 Q. But if you didn't, then it's not really fair to
10 state that V&S was onboard except for the other
11 sticking point; is it?

12 A. Well, in the lease agreement, V&S agreed to
13 participate in an Under Arrangements venture if it
14 came about.

15 Q. We'll get to the lease agreement later. I'm
16 talking about your discussions before you decided to
17 go with a lease route.

18 V&S had never said, I'm willing to sign this
19 Under Arrangements venture if you can get the other
20 doctors to sign; correct?

21 A. Not before the lease agreement, no.

22 Q. Okay. Now, at some point the parties decided
23 to go the sublease route; correct?

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1 A. Correct.

2 Q. Do you know when the sublease concept was first
3 raised?

4 A. It was early in 2003. I don't know the exact
5 meeting that that occurred at.

6 Q. Let me show you this.

7 (Leonhardt Deposition Exhibit No. 2 was
8 marked for identification.)

9 Q. I've shown you Exhibit 2 which is a February
10 11th, 2003 letter from Edward Kabala to Alan
11 Steinberg.

12 Have you seen this letter before?

13 A. Let me look at it.

14 Q. Oh, okay.

15 A. I expect I probably have but -- okay.

16 Q. Do you recognize the letter, first off?

17 A. I remember receiving the letter now, yeah, a
18 copy of the letter.

19 Q. The first paragraph references a February 10th
20 meeting. Do you know whether you were present at a
21 February 10th, 2003 meeting?

22 A. I believe I was.

23 Q. Who else was present?

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1 A. I believe Drs. Vaccaro and Saleh and Mr.

2 Kabala, Mr. Steinberg; and I don't remember whether
3 Mr. Mulholland was there or not.

4 Q. That first paragraph says that the February
5 10th meeting concluded with Drs. Vaccaro and Saleh
6 offering to engage in a leasing agreement for the
7 nuclear camera.

8 Do you recall that issue coming up in that
9 meeting?

10 A. Apparently it did, yes.

11 Q. Do you have any specific recollection of that
12 meeting?

13 A. I do not.

14 Q. All right. Do you have a recollection of a
15 meeting at this time where Drs. Vaccaro and Saleh
16 offered to enter into a lease arrangement?

17 A. I have recollection that we discussed any
18 number of alternatives and that leasing is one of the
19 alternatives that came up and ultimately got hammered
20 through. I don't have any specific recollection, you
21 know, even seeing this letter, that a meeting ended
22 with them making that proposal or who initially
23 brought that idea up at the meeting.

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1 Q. Assuming that the meeting is accurately
2 described here, do you believe that that was the first
3 time this lease proposal was broached?

4 A. I can't honestly answer that. It might have
5 been broached earlier, also.

6 Q. But you don't have any specific recollection of
7 it being broached earlier?

8 A. I do not.

9 Q. If you'd flip over to the second page, please.
10 The third paragraph says, "It would be expected that
11 the hospital would operate the facility in the current
12 location." Do you see that sentence?

13 A. Yes, I do.

14 Q. Do you recall that issue being discussed at a
15 meeting around this time?

16 A. Yes.

17 Q. Do you think that was this meeting?

18 A. Apparently it was, but I don't have any
19 specific recollection.

20 Q. As best you can remember, can you tell me how
21 that discussion went?

22 A. There was a point in time when it was Vaccaro
23 and Saleh's interest in continuing to operate the

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1 camera on the site of their practice and they were
2 proposing this kind of leasing arrangement.

3 From the hospital's point of view, we were not
4 interested in operating the camera on the site of
5 their practice if we were leasing it.

6 Q. Why would the hospital have not been interested
7 in operating it at their office?

8 A. If we were going to be involved in the
9 operation of a nuclear camera, we wanted it to be in a
10 location that would be attractive for any number of
11 physicians on the medical staff to refer patients to.
12 We didn't believe that any other physicians would want
13 to have their patients have diagnostic work done at
14 Vaccaro and Saleh's office whether the hospital was
15 the ultimate provider of that service or not.

16 Q. Then it says, "My clients have indicated that
17 all of their Nuclear Medicine Studies can be
18 accommodated by a combination of their current camera
19 and those at BRMC." Do you recall any discussion of
20 that issue?

21 A. Not specifically, no.

22 Q. It says "those at BRMC." BRMC only had one
23 camera; correct?

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1 A. At that point in time.

2 Q. Do you know -- after this February 10th meeting
3 that we assume happened, do you know when the next
4 time you had any kind of face-to-face meeting with
5 Drs. Vaccaro or Saleh regarding a lease arrangement?

6 A. I believe it was in March.

7 Q. Do you recall a March 8th meeting discussing
8 the lease arrangement?

9 A. I recall a March meeting. You know, I looked
10 back at my records and it was on March 8th.

11 Q. I'll show you this.

12 MR. SIMPSON: If we could mark this as
13 Exhibit 3, please.

14 (Leonhardt Deposition Exhibit No. 3 was
15 marked for identification.)

16 Q. I'm showing you what's marked as Exhibit 3,
17 which is a March 20th, 2003 letter to Alan Steinberg
18 from Jodeen Hobbs.

19 First I'll ask you if you recall seeing that
20 letter?

21 A. Okay.

22 Q. Do you recall reading this letter at around the
23 time it was sent?

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1 A. I don't have any specific recollection of it,
2 no.

3 Q. Did you routinely read correspondence from
4 opposing counsel?

5 A. Yes.

6 Q. So it's likely you did read this letter?

7 A. It's very likely I did. I just don't have a
8 specific recollection of it.

9 Q. Do you have a specific recollection of this
10 March 8th meeting that's discussed in the letter?

11 A. Yes, I have a recollection of the March 8th
12 meeting.

13 Q. And it says that Drs. Vaccaro and Saleh, Mr.
14 Kabala, Mr. Mulholland, Mr. Steinberg and you were at
15 the meeting. Is that right?

16 A. Yes, I believe so.

17 Q. And is it true that the discussions focused
18 primarily on the details of a proposed lease
19 agreement?

20 A. Yes, they did.

21 Q. Do you know who suggested the meeting or who
22 proposed having this meeting? Was it you or them?

23 A. Prior to these meetings, we agreed to meet on

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1 several occasions over a period of a couple of months
2 to try to resolve this issue. The March 8th meeting
3 was one of those meetings.

4 Q. So it might have been scheduled previously?

5 A. It might have been scheduled previously.

6 Q. But by the time of this meeting, you were
7 focusing on the lease concept as opposed to the Under
8 Arrangements concept; correct?

9 A. No, we were focusing on the lease concept as
10 something that we could get done to resolve this
11 dispute at this point in time while we continued to
12 work on the Under Arrangements.

13 Q. When you say as a means to resolve this
14 dispute, I just want to back up one second. One
15 possible means of resolving the dispute was simply for
16 the hospital to say, keep your camera, we're not going
17 to revoke your privileges. That was an option of the
18 hospital; wasn't it?

19 A. Sure it was.

20 Q. And to your knowledge, that option would have
21 been acceptable to Drs. Vaccaro and Saleh?

22 A. I expect it would have been.

23 Q. At the time of this meeting, was the hospital

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1 resistant to the idea of doing a lease or was the
2 hospital open to the idea of doing a lease or was the
3 hospital pushing the idea of doing a lease, if you
4 understand?

5 MR. MULHOLLAND: I just object to the
6 form; but he can answer to the extent he can.

7 A. If I was asked to describe it, I would say we
8 were open to the idea of pursuing a lease.

9 Q. V&S, would you describe them as being open to
10 the idea, resistant to it or pushing it?

11 MR. MULHOLLAND: Same objection to form.
12 But you can answer.

13 A. I don't know how to answer that.

14 Q. I suppose the point I'm trying to get at is:
15 Which side was the one who was the advocate for the
16 lease idea?

17 A. My impression was that both sides saw it as a
18 potential way to resolve their dispute and that
19 neither side saw it as perfect or, you know, what they
20 ultimately wanted. It was a way to compromise.

21 Q. Now, at this meeting, is it correct that V&S
22 initially proposed a five-year 2,000 dollar per day
23 lease?

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1 A. That's what the letter says and I have no
2 reason to believe that wasn't true.

3 Q. Do you have any specific recollection of that
4 issue being discussed at the meeting?

5 A. I have recollection of V&S being interested in
6 a lease that was on a per diem basis, the hospital not
7 being interested in a per diem lease and any number of
8 discussions about various lease prices.

9 Q. Tell me what discussions there were about lease
10 prices.

11 A. Vaccaro and Saleh wanted a higher price than we
12 were willing to pay and we wanted a lower price than
13 they said they were willing to accept.

14 Q. Presumably neither one of you were pulling
15 these numbers out of thin air; correct?

16 A. I know we weren't pulling numbers out of thin
17 air. I don't believe they were.

18 Q. What did the hospital base its numbers on? I
19 guess let me back up a second.

20 At some point the hospital -- at some point
21 during this meeting, did the hospital make any
22 proposal as to a dollar figure for a lease?

23 A. Yes, we did. I don't remember exactly what it

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1 was and it's not outlined in this letter. It might be
2 in Mr. Steinberg's letter which he refers to of March
3 14th.

4 Q. Presumably it was something less than \$1500 a
5 day; right?

6 A. Presumably it was, yes.

7 Q. Do you know if the hospital -- the proposal
8 made by the hospital, was it a per diem rate?

9 A. No.

10 Q. Do you know what kind of proposal the hospital
11 made?

12 A. It was monthly.

13 Q. Monthly? Okay. I guess is there a difference
14 between a per diem rate and a monthly rate other than
15 the monthly rate is 30 times larger?

16 A. Yeah. Number one, it wasn't 30 times larger
17 than the per diem rate. Number two is we didn't want
18 to get into arguments about -- as the letter starts to
19 do about whether we had used the machine on a Saturday
20 or a Sunday or a holiday. We were unwilling to
21 certainly pay a per diem for Saturdays, Sundays and
22 holidays when we know that while the machine might be
23 used it's not going to be used, you know, with any

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1 great volume on those days.

2 Q. When V&S was making their per diem proposals,
3 was that a seven-day-a-week per diem or a
4 five-day-a-week per diem?

5 A. As the sheet says, they initially talked about
6 a three-day-a-week per diem, then a five-day; and then
7 she points out that our response was not to their
8 liking because it raised the possibility that we could
9 use it for seven days.

10 Q. Now, at this meeting, were you all discussing
11 leaving the camera at V&S or bringing it to the
12 hospital?

13 A. I don't know whether we discussed that or not.
14 I know the hospital's position was that we wanted the
15 camera at the hospital or we wanted a camera at the
16 hospital.

17 Q. You had a camera at the hospital; correct?

18 A. Yeah. We wanted another camera at the
19 hospital.

20 Q. At this time, was the hospital exploring the
21 possibility of getting a camera, a second camera, from
22 somewhere other than V&S?

23 A. We were seeing the need for a second camera.

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1 Q. Had you identified any specific vendors or
2 cameras to meet that need other than the V&S one?

3 A. I can't answer whether that occurred in March
4 of 2003 or not; but very close to that time we were
5 evaluating the options as far as kind of camera, the
6 kind of capabilities that we wanted and needed and who
7 that was available from.

8 Q. Now, your initial agreement with V&S was signed
9 in April of 2003; correct?

10 A. I believe there was a -- I'm not sure I'm
11 describing this correctly; but I believe the April
12 agreement was an agreement to agree.

13 Q. So when you say the hospital was exploring the
14 options of other cameras, was it doing that before it
15 entered into the April agreement or afterwards?

16 A. I honestly can't answer some of that because
17 some of that exploration was going on by department
18 managers and people in charge of the diagnostic area
19 who were out there exploring things, you know, prior
20 to my knowing about them.

21 Q. Prior to you entering into the lease with V&S,
22 did anyone ever present to you a proposal to acquire a
23 specific camera?

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1 A. No.

2 Q. Prior to entering into the lease with V&S, did
3 you ever evaluate any specific cameras?

4 A. Did I ever personally?

5 Q. Yes.

6 A. No.

7 Q. Did anyone on your orders do that?

8 A. Not on my orders, no.

9 Q. All right. Is there someone who did?

10 A. I'm not trying to be vague. What happened was
11 that at the time that I made the director of
12 diagnostic imaging aware of the fact that we were
13 going to enter into a lease with V&S about this
14 camera, he produced for me some research he had done
15 about the kind of camera we needed.

16 Q. Who was that?

17 A. Tim Brown.

18 Q. And the research he gave you described a camera
19 that was different from the one that V&S had; correct?

20 A. Yeah. We were aware that this was not going to
21 be the camera we ultimately wanted.

22 Q. So you had one and you were looking at getting
23 another one?

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1 A. Correct.

2 Q. You didn't want three?

3 A. No.

4 Q. Going back to this March 8th meeting, you said
5 the hospital was proposing a monthly figure, you can't
6 remember how much a month; is that correct?

7 A. I know where we ended up. I don't really know
8 where we started.

9 Q. I'm talking this negotiating session.

10 A. Right.

11 Q. You don't know what that number was, what the
12 hospital's number was at the negotiating session?

13 A. No, I do not.

14 Q. Do you know how you arrived at that number?

15 A. Yes, I do.

16 Q. How did you arrive at it?

17 A. We arrived at that number based upon what we
18 thought -- a combination of what we thought the pass
19 through cost was for the actual lease of a camera and
20 our evaluation of what a fair price was for Vaccaro
21 and Saleh to get out of the business.

22 Q. And how did you evaluate what a fair price to
23 Vaccaro and Saleh would be?

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1 A. Over this period of time, we had been asking
2 for information about their costs, the revenue that
3 was generated from the camera to the practice.

4 Q. So are you telling me that the numbers proposed
5 by the hospital had nothing to do with how much the
6 hospital figured it could make by using the machine?

7 A. No, they did not. They had everything to do
8 with what we thought was a fair price to get them out
9 of the business.

10 Q. Is it typical for a hospital in deciding how
11 much it wants to pay for a piece of machinery to
12 ignore how much revenue it can obtain by using the
13 machinery?

14 A. Oh, no; and believe me, we had a pretty good
15 idea what kind of revenue we could generate from this;
16 but the relevant -- in this negotiation, we believed
17 that the relevant issue was what a fair price to pay
18 Vaccaro and Saleh to get out of the business was.

19 Q. So you were trying to give them a good deal,
20 not the hospital?

21 A. A fair deal.

22 Q. Regardless of whether that was a fair deal to
23 the hospital?

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1 A. Oh, we certainly wouldn't have done that if it
2 wasn't a fair deal for the hospital. We weren't
3 interested in paying them based upon how much we
4 thought we might profit. We were interested in --
5 because, frankly, that number in our mind was too
6 large. What we were interested in was what was a fair
7 price to pay them to get out of this business.

8 Q. Did you compare that number to what it would
9 cost you to get a machine elsewhere?

10 A. The piece of that that we would compare to what
11 it would cost us was lease pass through.

12 Q. But you paid a great deal more than the lease
13 pass through?

14 A. Yeah; and I'm telling you that the rest of what
15 we paid for was the noncompete; and we looked at the
16 noncompete as being a fair price for them to get out
17 of the business.

18 Q. What was your expectation of what Vaccaro and
19 Saleh would do with their nuclear camera patients if
20 they subleased the camera to you?

21 A. Well, we hoped that they would refer them to
22 us.

23 Q. You projected that they would refer them to

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1 you; correct?

2 A. We evaluated; but, no, we hoped that they would
3 refer them to us.

4 Q. You expected they would refer them to you;
5 correct?

6 A. I've said we hoped that they would refer them
7 to us. We thought that we could satisfy them. We
8 thought we could satisfy their patients.

9 Q. If you knew that they would not refer them to
10 you, would you have still done the same deal?

11 A. If we knew?

12 Q. Yes.

13 MR. MULHOLLAND: Objection. You're asking
14 for speculation. He can answer to the extent
15 he's able to.

16 A. You know, I really don't know how to answer
17 that. I can't imagine how we would know one way or
18 the other; but if somehow we magically knew that no
19 patients would be referred to us, no, I don't suppose
20 we would have done this.

21 Q. You were not trying to be charitable to V&S;
22 were you? That wasn't your goal?

23 A. No. This was a business arrangement.

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1 Q. It was a business arrangement for the hospital,
2 you were looking out for the hospital's interests;
3 correct?

4 A. And they were looking out for their interests
5 and we expected them to. You know, we wanted this to
6 be a fair deal.

7 MR. SIMPSON: Mark this as Exhibit 4.

8 (Leonhardt Deposition Exhibit No. 4 was
9 marked for identification.)

10 Q. What is this document, I guess?

11 A. This is an evaluation of the sublease agreement
12 with Vaccaro and Saleh, an independent evaluation.

13 Q. And it was prepared by Charles T. Day?

14 A. That's correct.

15 Q. For the hospital?

16 A. Yes.

17 Q. At your direction?

18 A. I don't know whether it was prepared at my
19 direction or at the direction of Horthy & Springer.

20 Q. But it was for the hospital? It was prepared
21 for the hospital to evaluate the fair market value of
22 the arrangement -- the lease arrangement with V&S;
23 correct?

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1 A. That's correct.

2 Q. And you considered it in that context; correct?

3 A. Absolutely, prior to signing the agreement.

4 Q. Prior to signing the --

5 A. Final lease agreement.

6 Q. Final October lease agreement?

7 A. That's correct.

8 Q. But after the agreement to agree?

9 A. Yes.

10 Q. If you'd turn to page 17, please, the last full
11 paragraph. It says that the "table shows the expected
12 quantitative revenues that would accrue to the
13 hospital with a noncompetition agreement in place and
14 a comparison of those benefits to the amounts payable
15 under the noncompetition agreement. This is based on
16 the assumption that the physicians would likely refer
17 this business to the hospital in the absence of a
18 financial interest in their own facilities or
19 services, although they are not required to do so by
20 virtue of any of the covenants contained in the
21 Agreements or otherwise."

22 Am I reading that right?

23 A. Yes.

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1 Q. So this agreement is evaluating the expected
2 revenues from entering into the lease agreement and
3 it's based on the assumption that V&S is likely going
4 to refer that business to the hospital; is that
5 correct?

6 A. That's how I read it, yes.

7 Q. And you relied upon that in evaluating fair
8 market value -- in evaluating whether the price you
9 were paying to V&S was a fair market value?

10 A. Yes.

11 Q. And it is true, is it not, that the purpose of
12 the covenant not to compete was to protect that
13 revenue stream for the hospital?

14 MR. MULHOLLAND: Object to the
15 characterization as something that he hasn't
16 testified about.

17 But if you're able to answer that
18 question, you can.

19 A. Would you repeat it?

20 Q. It's fair to say that the purpose of the
21 noncompete agreement was to protect that revenue
22 stream?

23 A. The purpose of the noncompete, from my point of

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1 view, was to make sure that Drs. Vaccaro and Saleh
2 didn't have a financial incentive to refer away from
3 the hospital.

4 Q. Because if they didn't have a financial
5 incentive to refer away, they would refer it to you?

6 A. We could hope that they would, yes.

7 Q. You did more than hope. You expected they
8 would refer to you?

9 A. Expected they would refer a good bit of it to
10 us, yeah.

11 Q. If you could turn to page 14. In the middle
12 under paragraph number one it says, "There are three
13 revenue streams that the Board felt would be severely
14 impacted if physicians had financial interests that
15 would induce them to direct business away from the
16 hospital and that needed to be protected by
17 associating a covenant not to compete with the
18 sublease. These are CT and MRI net revenues,
19 inpatient net revenues and outpatient net revenues
20 (excluding the aforementioned CT and MRI net
21 revenues)."

22 Is that an accurate statement?

23 A. Yes, I believe so.

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1 Q. I'm not asking if I read it right. That is
2 factually accurate?

3 A. I believe so.

4 Q. Okay. Going back to Exhibit 3, which was the
5 March 20th letter. It says that at the end of the
6 meeting the doctors agreed to a five-year, 1500 dollar
7 per day lease.

8 A. I'm sorry, where?

9 Q. I'm sorry. It's at the bottom of the first
10 page.

11 A. Okay.

12 Q. Do you recall whether at the end of the day the
13 doctors, in fact, agreed to that amount?

14 A. I don't have any specific recollection of that,
15 no.

16 Q. Okay. Could you flip over to the next page?
17 In the next-to-last paragraph it says, "Please
18 consider that the numbers as discussed at the March
19 8th meeting only contemplated the use of the camera
20 five days per week."

21 In light of that statement, isn't it fair to
22 say that the numbers that were discussed at the
23 meeting were not simply numbers about a fair value to

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1 V&S but were numbers that took into account the
2 expected usage of the equipment at the hospital?

3 A. You asked me earlier what the hospital based
4 its offers on and I explained that to you. You know,
5 it says in the letter that the physicians were basing
6 their demands on the number of days per week that the
7 camera might be used.

8 Q. Is it your testimony that the hospital's
9 numbers did not take into account the expected usage
10 of the machine at the hospital?

11 A. The number of days that it would be used.

12 Q. Is it your testimony that in making the
13 hospital's counterproposals the hospital did not take
14 into account the volume of business it would be able
15 to use the machine for at its facility?

16 MR. MULHOLLAND: Object to the extent
17 you're asking him for a legal conclusion; but
18 he can answer as to his understanding of the
19 question.

20 A. You know, prior to an independent evaluation
21 being done, the hospital's view of how a price could
22 be determined was based upon what we thought a fair
23 price was for Vaccaro and Saleh to get out of the

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1 business. Now, that certainly was within the context
2 of "and if we pay that kind of price, is it a rational
3 business deal for the hospital."

4 Q. And it would only be a rational business deal
5 for the hospital if the business was there for the
6 hospital?

7 MR. MULHOLLAND: Object to the form of the
8 question; but he can answer.

9 Q. It would only be a rational business deal for
10 the hospital if the hospital could generate sufficient
11 revenues from the machine; correct?

12 MR. MULHOLLAND: Same objection; but he
13 can answer if he can.

14 A. Yeah, to the extent that, you know, if somehow
15 the hospital desired that they get out of that
16 business but it was generating so much income for them
17 that for us to pay a fair price for them to do so for
18 some reason we couldn't generate sufficient income to
19 cover it.

20 Q. It is also true, is it not, that the hospital
21 feared that if it did not do a deal with Vaccaro and
22 Saleh the hospital could lose not simply the nuclear
23 medicine referrals but also the inpatient referrals

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1 and other outpatient referrals; correct?

2 A. No. I don't believe so, no. I don't see the
3 connection between the two. If the hospital took
4 action to revoke Vaccaro and Saleh's privileges, we
5 would face that risk.

6 Q. Well, you've said that that was not an empty
7 threat.

8 A. That's correct; but it didn't require doing a
9 lease.

10 Q. At this March 8th meeting, do you recall there
11 being any discussion of the Stark Statute or the
12 Anti-Kickback Statute?

13 A. Not with all parties present.

14 Q. All right. I'm not asking about your
15 discussions with your own attorney; but if there were
16 discussions, you know, between the parties, that would
17 not be privileged.

18 A. I recall discussions but not with all the
19 parties present, only with my attorneys.

20 Q. Okay. So any discussions would have been
21 between you and your attorneys without any other
22 parties present; is that correct?

23 A. Any that I recall, yes.

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1 Q. All right. At any of the meetings you had with
2 V&S or their attorneys regarding the lease
3 arrangement, do you recall their being discussions of
4 the Stark or Anti-Kickback Statute?

5 A. Only to the extent that all parties believed
6 that the lease was within the guidelines of both Stark
7 and Anti-Kickback.

8 Q. Let me explore that. Were there discussions
9 where one side said to the other, this lease complies
10 with Stark and Anti-Kickback Statutes?

11 A. Only to the extent that, you know, this lease
12 is appropriate.

13 Q. I'm not sure what you're saying when you say
14 "to the extent." Was it simply an assumption in the
15 air that we thought this was a good lease or was the
16 word Stark or Anti-Kickback ever used in the meetings?

17 A. I don't recall those words ever being used when
18 all the parties were present.

19 Q. Okay. When you say "all the parties were
20 present," you're talking about just you and your
21 attorneys?

22 A. Correct.

23 Q. They don't all have to be present.

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1 A. Right.

2 MR. MULHOLLAND: I'm just wondering about
3 timing, if you wanted to schedule a lunch break
4 at some point.

5 MR. SIMPSON: Let me go a few more minutes
6 and then we can take a lunch break.

7 Q. Were you ever present during discussions
8 between your attorney and V&S's attorney where Stark
9 or Anti-Kickback were discussed?

10 A. Not that I remember.

11 Q. Did either party ever give the other party an
12 assurance that the lease complied with either the
13 Stark Statute or the Anti-Kickback Statute?

14 MR. MULHOLLAND: Object to the extent the
15 lease speaks for itself; but he can talk about
16 any assurance that he's aware of.

17 A. I'm not aware of any.

18 Q. You didn't rely on any assurance from V&S as to
19 the legality of the arrangement; did you?

20 A. No.

21 MR. SIMPSON: We'll stop here. I'm done
22 with that letter so I guess we can stop and
23 take a lunch break.

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1 (Lunch recess from 11:30 a.m. Until 12:05
2 p.m.)

3 Q. We just had been talking about this March 8th,
4 2003 meeting. Mr. Leonhardt, do you recall how the
5 discussions proceeded after that meeting in terms of
6 negotiating a dollar figure for payments under the
7 lease?

8 A. I recall that there was a significant amount of
9 back and forth between the attorneys and being
10 involved in discussions with probably mostly Mr.
11 Steinberg after that about the various iterations.

12 Q. Were you intimately involved in figuring out
13 what dollar figure to use for lease payments?

14 A. As involved as anybody was, yes.

15 Q. How did the parties ultimately arrive at the
16 numbers that were put in the lease?

17 A. By coming to I believe some kind of an
18 agreement about what a fair price was for Vaccaro and
19 Saleh to give up that line of business.

20 Q. Was it just a gut feeling or was there --

21 A. No. It was based on information back and
22 forth. You know, we based our offers on information
23 about the revenue that that was producing for them.

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1 On a couple of occasions they -- you know, we were
2 reminding them that there were costs involved in that
3 also and were literally asking for information about
4 what is the cost of the drug, how much are you paying
5 to have radioactive waste taken away, what's your
6 license costing you.
7 Q. Did you view the amount that Vaccaro and Saleh
8 were making by using the machine as a proxy for what
9 the hospital could make?
10 A. No. Hospitals and physician practices are paid
11 differently for those services. They aren't paid
12 exactly the same.
13 Q. The hospitals are paid more; is that correct?
14 A. That's correct.
15 Q. Do you know how much more?
16 A. That's correct in most instances. That's a
17 generally true statement. I don't remember exactly
18 how much more.
19 Q. At some point this April agreement to agree was
20 entered into and then in October the final lease
21 agreement was entered into; right?
22 A. That's correct.
23 Q. Did you have to go to the boards to get

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1 approval for the lease arrangement?
2 A. Oh, yes.
3 Q. Did you do that before the April agreement?
4 A. The board was aware that we were trying to
5 reach an agreement and, you know, might well agree to
6 agree based on final approval from the board.
7 Q. Okay. Let me show you this.
8 MR. SIMPSON: Mark this as Exhibit 5,
9 please.
10 (Leonhardt Deposition Exhibit No. 5 was
11 marked for identification.)
12 Q. Now, do you recognize Exhibit 5?
13 A. Yeah. Could I read it, please?
14 Q. Sure.
15 A. Okay.
16 Q. Do you recognize this document? Actually,
17 before I ask that question, I should ask: Is this one
18 document? There's three pages and I don't know if
19 it's one document or more.
20 A. I believe pages one and two are one document.
21 Q. And so the third page is not part of the
22 document you don't believe?
23 A. I don't believe so.

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1 Q. Well, let's talk about the first two pages
2 then. What are these first two pages?
3 A. It's a summary of those discussions with V&S
4 and how we ended up with a proposed lease agreement.
5 Q. And this was prepared by you?
6 A. Largely I believe so, yes.
7 Q. When you say "largely" --
8 A. I probably had some help with this from
9 Stroudwater Associates and probably had some input
10 from Mr. Steinberg.
11 Q. When I say "prepared," I mean you wrote the
12 document?
13 A. Yeah.
14 Q. Okay. You typed it out yourself?
15 A. No, I didn't type it out myself.
16 Q. You dictated it or --
17 A. Yes.
18 Q. Stroudwater's input would have been on the
19 numbers, coming to the numbers?
20 A. Correct.
21 Q. On the bottom of the second page, do you see
22 the -- I guess the D/Administration/George, all of
23 that?

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1 A. That indicates it was typed for me.
2 Q. And so was this, in fact, a summary for the
3 board of directors?
4 A. Yes.
5 Q. Prepared on or about April 3rd, would you say?
6 A. Yeah, that's what it says.
7 Q. Was there a board meeting that this was
8 prepared for?
9 A. It would have been later that month or the end
10 of April.
11 Q. All right. In the middle paragraph of the
12 first page it says that "V&S Medical Associates made a
13 counter proposal that the Medical Center lease the
14 equipment in their office as an immediate resolution
15 of the dispute." Do you see that sentence?
16 A. Yes, I do.
17 Q. Does that refresh your recollection as to it
18 was V&S who made the first proposal to lease?
19 A. Honestly, it doesn't; but from reading that,
20 apparently that's what happened.
21 Q. That paragraph goes on to state that "Their
22 stated reasons for this counter proposal were that it
23 would resolve the dispute in a manner that wasn't

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1 dependent upon the participation of other physicians
2 or the ultimate approval of regulatory agencies."

3 Do you know what they're talking about about
4 the ultimate approval of regulatory agencies?

5 A. They're talking about the Under Arrangements
6 proposal.

7 Q. It had always been contemplated that before
8 going through with an Under Arrangements venture you
9 would get an approval letter from OIG; is that
10 correct?

11 A. That's correct.

12 Q. Is there a reason why you didn't go through
13 that same process before entering into the lease
14 agreement?

15 A. Well, lease agreements are much more common and
16 they're -- it's ground that's well trod. People know
17 what they can and can't do.

18 Q. You did recognize, however, that whether the
19 arrangement was structured as an Under Arrangements
20 venture or a lease it would still have to comply with
21 the Stark Statute and the Anti-Kickback Statute;
22 correct?

23 A. Yes.

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1 Q. If you look at the bottom paragraph of that
2 page, it talks about a modification of V&S's original
3 lease proposal and it says, "These modifications were
4 reviewed at the March Executive Committee and Board
5 meetings." Do you recall those meetings?

6 A. I don't particularly recall them individually,
7 but apparently that's what happened.

8 Q. Okay. And it says, "At these meetings it was
9 determined that we should seek a lease arrangement
10 with the following terms." You don't recall a board
11 meeting determining that you should seek a lease
12 arrangement with specific terms?

13 A. I don't specifically recall it, no.

14 Q. Flipping over to the next page it says "Page
15 Two" and then "Financial Background" but it doesn't
16 really say what the terms of the lease are. Do you
17 have an explanation for that?

18 A. I do not. I wondered the same thing when I
19 read it. The thing that confused me most was it's
20 listed as page two.

21 Q. Do you know if there's a page missing from
22 this?

23 A. I don't know that but --

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1 Q. Do you recall creating this document?

2 A. Specifically, no, I don't.

3 Q. However, page two, as we can tell from the
4 identification line at the bottom, is a summary of the
5 lease for the board, correct, or it's part of the
6 summary for the board?

7 A. Yes.

8 Q. Do you see where it says "Adding a portion of
9 V&S volume to BRMC's current volumes"? That's talking
10 about the expectation that at least a portion of V&S's
11 business is going to be coming to the hospital;
12 correct?

13 A. That's correct.

14 Q. And then it says, "Lease of V&S equipment, BRMC
15 Profit, 402,000, V&S Profit 268,000." Is that the
16 expected profit to Bradford from entering into this
17 lease agreement?

18 A. I would expect that's the profit that we
19 assumed from that volume of services, yes.

20 Q. From adding a portion of V&S's volume?

21 A. Yeah.

22 Q. Underneath that it says, "When finalized, the
23 Under Arrangements Model" and then it gives different

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1 profit figures. So are you comparing the expected
2 profit from the lease versus what you expected from
3 the Under Arrangements Model?

4 A. Yes.

5 Q. So from these numbers it looks like the lease
6 is more profitable to Bradford; correct?

7 A. Yes; but the Under Arrangements Model had many
8 more components than just nuclear cardiology.

9 Q. Correct. But here you're just comparing that
10 component?

11 A. Here we're only comparing that component.

12 Q. Could you flip over to the third page?

13 A. Sure.

14 Q. Actually, I'm sorry, let's go back before we go
15 to the third page.

16 Do you recall making a presentation to the
17 board about these issues on pages one and two that we
18 just went over?

19 A. I know I did. I don't recall it.

20 Q. Did you get formal board approval to enter into
21 the final lease?

22 A. Yes.

23 Q. Do you know when you got that?

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1 A. It would have been at that meeting or the next
2 one.
3 Q. And the terms did not fundamentally change
4 between the execution of the April agreement to agree
5 and the October final lease agreement; correct?
6 A. I believe some of the financial agreements
7 changed but the outline of the terms didn't change
8 fundamentally.
9 Q. Now let's go to the third page, please. It's
10 entitled Impact of Six Leaving Under Arrangements.
11 Can you explain what this document is?
12 A. Yeah. This was an analysis that we did and
13 there would have been more pages to this analysis. We
14 did this based upon a set of assumptions: If everyone
15 in the department of medicine participates, here's
16 what it looks like; if three people don't, here's what
17 it looks like; if six leave and don't participate,
18 here's what it looks like.
19 Q. Is this document discussing the Under
20 Arrangements venture or the lease agreement?
21 A. This is discussing the Under Arrangements
22 venture because it's looking at MRI, CT and nuclear.
23 Q. And the six that are referred to there, is that

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1 referring to any six particular physicians?
2 A. The six that said they wouldn't participate if
3 Vaccaro and Saleh were partners.
4 Q. Okay. So I guess the top half of this page
5 then is saying if those six physicians don't
6 participate for MRI BRMC's profit goes down from 388
7 to 266. Is that essentially what's it's saying?
8 A. Yeah. It's a fairly gross analysis, too, as
9 you understand.
10 Q. Right. I'm just trying to understand what this
11 is trying to say.
12 And then the bottom half says "Comparable
13 Impact of V&S Pulling Out of Same Services." Now, is
14 this -- what are the assumptions on this bottom half?
15 Is that an assumption of having an Under Arrangements
16 venture that V&S doesn't participate in?
17 A. Yes.
18 Q. So you would have an Under Arrangements venture
19 where all the other physicians are involved but
20 there's no V&S; is that correct?
21 A. That's correct.
22 Q. And under that scenario, for example, you
23 anticipate that for MRI Bradford's profit goes from

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1 388 to 220?
2 A. Ah-huh.
3 Q. And you said there would probably be other
4 pages that go along with this?
5 A. Yeah. Again, with different levels of "what
6 if" scenarios.
7 Q. And who prepared this?
8 A. This would have -- you know, I may have written
9 this down; but these numbers would have been done by a
10 combination of our finance department and Stroudwater.
11 Q. Was this document or this kind of an analysis
12 used to justify entering into a lease agreement?
13 A. No.
14 Q. Or was it just totally independent?
15 A. It was used to evaluate what was going on with
16 the Under Arrangements and what the scenarios were
17 there.
18 Q. So it's totally unconnected to the previous two
19 pages of this exhibit?
20 A. I believe it is, yeah.
21 Q. All right. I really just want to get this into
22 record. I don't really want to ask you any questions
23 about it.

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1 MR. SIMPSON: But you can mark this as
2 Exhibit 6.
3 (Leonhardt Deposition Exhibit No. 6 was
4 marked for identification.)
5 Q. Exhibit 6 is a February 15th, 2002 letter to
6 George Leonhardt from Mark Raspanti, who was an
7 attorney for Vaccaro and Saleh I believe.
8 Do you recall receiving this letter, Mr.
9 Leonhardt?
10 MR. MULHOLLAND: Just for the record,
11 we'll interpose whatever objections we had
12 interposed before relative to the Peer Review
13 Protection Act possibly applying to this; but I
14 think you can ask him the question. I just
15 wanted to preserve that same objection to the
16 extent it was made I think on Dr. Vaccaro's
17 deposition.
18 A. Yes, I do remember receiving this.
19 Q. If you'll flip over to page five, the second
20 paragraph starts off saying, "We know of no case that
21 more clearly establishes a hospital's attempt to
22 extract an exclusive referral stream from a
23 physician."

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1 And we had discussed that issue previously and
2 I think you had mentioned that you were aware that
3 V&S's attorneys had made that accusation. And this is
4 the letter where they do make that accusation;
5 correct?

6 A. Right.

7 Q. Now, ultimately you entered into a lease
8 agreement and executed a final agreement in October;
9 correct?

10 A. Correct.

11 Q. After you entered into that agreement, what
12 happened to the nuclear camera?

13 A. For a period of time it continued to operate at
14 Vaccaro and Saleh's office.

15 Q. I just wanted to ask some questions about that,
16 but if you wanted to keep going -- were you finished
17 with that answer?

18 A. Until such time as we were able to get the
19 camera that we desired from Philips in place at the
20 hospital.

21 Q. Now, you had previously testified that you
22 didn't think it was a good idea for Bradford to lease
23 a camera and then leave it at V&S's office; correct?

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1 A. Correct.

2 Q. So why did you ultimately decide to do that?

3 A. Because we couldn't get the camera from Philips
4 that we had wanted at the time that the lease was
5 entered into. It took us longer to get that than we
6 expected it to.

7 Q. All right. You had said that one of the
8 problems with doing it that way would be that other
9 physicians -- it wouldn't be as easy for them to refer
10 patients for tests to be performed on a camera at
11 V&S's office; correct?

12 A. That's correct.

13 Q. So for a period of -- do you know how long the
14 camera was at V&S's office?

15 A. I believe almost until March.

16 Q. So four or five months?

17 A. About four or five months.

18 Q. How was the camera used during that time?

19 A. It was used essentially by V&S's patients.

20 Q. Okay. It was used by V&S's patients but it was
21 Bradford's camera because you had subleased it?

22 A. We were leasing it at that point, yes.

23 Q. Did Bradford submit claims for tests performed

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1 on that camera during that period of time?

2 A. No. V&S continued to submit the claims and
3 then provided us with an accounting and the revenue
4 from that.

5 Q. Did V&S submit the claims under their provider
6 number or under the hospital's?

7 A. I don't know the answer to that.

8 Q. How did the hospital make money off of the
9 camera during that period of time?

10 A. V&S provided us with the revenue.

11 Q. And did the hospital pay V&S a billing fee?

12 A. Yes.

13 Q. Was it ten percent?

14 A. Yes.

15 Q. Did the hospital pay V&S rent to keep the
16 equipment at their facility?

17 A. And to use the space, yes.

18 Q. Was that \$2500 a month?

19 A. Yes, it was.

20 Q. Did the hospital make any other payments to V&S
21 in connection with the equipment during that four or
22 five-month period?

23 A. I believe there were also expense offsets from

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1 their revenue for the interpretation fees that they
2 were paying and for the cost of the drugs and for the
3 disposal of the nuclear waste.

4 Q. All right. What happened at the end of that
5 four or five-month period?

6 A. When we were able to get the camera from
7 Philips?

8 Q. Yes.

9 A. We began to operate the camera at the hospital.

10 Q. The Philips camera?

11 A. The Philips camera.

12 Q. I'm sorry. I wasn't very clear. What happened
13 to the GE camera, the old camera, after you got the
14 Philips camera?

15 A. There was a period of a couple of months where
16 Philips was trying to decide whether they wanted the
17 camera. The agreement with Philips was they would buy
18 the GE lease out early and their lease payment to
19 Vaccaro and Saleh would reflect that expenditure.

20 Q. Their lease payment from Vaccaro and Saleh?

21 A. From Vaccaro and Saleh. I'm sorry.

22 Q. What physically happened to the camera?

23 A. It stayed at Vaccaro and Saleh's office for a

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1 couple of months and then was disposed of.
 2 Q. Disposed of in what way?
 3 A. I don't know.
 4 Q. It wasn't sold?
 5 A. No, it wasn't sold. It was --
 6 Q. Gotten rid of?
 7 A. -- gotten rid of.
 8 Q. Did Bradford pay for the early termination of
 9 the GE lease?
 10 A. The cost of the early termination of the GE
 11 lease was folded into the Philips lease.
 12 Q. And that was paid by who?
 13 A. It was passed through from -- it was paid by
 14 Vaccaro and Saleh and then we reimbursed Vaccaro and
 15 Saleh for that.
 16 Q. Okay. So essentially Philips paid off GE. The
 17 amount of that payoff was folded into the Philips
 18 rental, I suppose?
 19 A. Correct.
 20 Q. Paid by Vaccaro and Saleh and then you --
 21 A. Passed through to us.
 22 Q. You reimbursed them?
 23 A. Right.

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1 Q. And are those payments still being made to this
 2 day?
 3 A. Yes, they are.
 4 Q. Do you know what the buyout -- the total buyout
 5 amount was?
 6 A. I'm sure I did at the time. I do not know now.
 7 Q. Let me show you Exhibit 7.
 8 (Leonhardt Deposition Exhibit No. 7 was
 9 marked for identification.)
 10 Q. I've shown you what's marked as Exhibit 7 which
 11 I'll tell you is what I believe to be the various
 12 documents governing the lease with Philips or the
 13 Philips camera. So I would ask you to look at that,
 14 please.
 15 If you don't mind, I'll ask this -- the first
 16 several pages are a document titled Master Lease
 17 Agreement dated April 6, 2004; and I guess my question
 18 to you is: Is this the Master Lease Agreement between
 19 Philips and V&S for the Philips camera?
 20 A. I believe it is, yeah.
 21 Q. All right. And then immediately after that is
 22 a document titled Master Lease Schedule No. 01, which
 23 is also dated April 6, 2004.

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1 A. Okay.
 2 Q. And if you go down to the next-to-the-last
 3 paragraph of that first page it requires 60 monthly
 4 payments of \$4,450.40?
 5 A. Yes.
 6 Q. Then flip over another couple of pages -- I'm
 7 sorry.
 8 And this Master Lease Schedule No. 01 is the
 9 lease for the new -- it reflects the lease payments
 10 for the new camera itself; correct?
 11 A. That's what it says, yes.
 12 Q. All right. Flip over a couple of pages to the
 13 document entitled Master Lease Schedule No. 02. If
 14 you look at No. 1, System Description, it identifies
 15 this as the -- as for the buyout of the GE camera;
 16 correct?
 17 A. Correct.
 18 Q. Based on an estimated cost of \$200,000; is that
 19 right?
 20 A. That's what it says, yes.
 21 Q. So the buyout of the GE was \$200,000? That's a
 22 yes?
 23 A. Yes. I'm sorry.

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1 Q. She doesn't hear ah-huh very easily or it
 2 doesn't translate very well.
 3 A. I apologize.
 4 Q. Then if you go down to paragraph 5(a) it calls
 5 for 60 equal consecutive monthly payments of
 6 \$3,958.13; and so that's what you were referring to
 7 about folding in the buyout in the lease; correct?
 8 A. Correct.
 9 Q. So there's two separate schedules, one of which
 10 deals with the buyout and one of which deals with the
 11 cost for the lease of the new camera?
 12 A. Correct.
 13 Q. And both of them are being passed through to
 14 Bradford?
 15 A. That's right.
 16 Q. Then if you flip over a couple of pages to a
 17 document entitled Guaranty dated April 6th.
 18 A. Correct.
 19 Q. And that is signed by you, correct, on behalf
 20 of Bradford Hospital?
 21 A. That's right.
 22 Q. So this is Bradford guaranteeing the
 23 obligations of V&S; correct?

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1 A. That's correct.

2 Q. Then flip over a couple of pages more and
3 there's another document entitled Addendum to Guaranty
4 which is another document signed by you on behalf of
5 Bradford; correct?

6 A. That's correct.

7 Q. And then if you'll flip over one more page
8 there's a letter dated September 28th, 2004 which
9 adjusts the payments under Schedule 1 of the Master
10 Lease because of changes in treasury notes.

11 A. Okay.

12 Q. Correct?

13 A. Correct.

14 Q. And the last page is a similar letter dated
15 January 20th, 2005 adjusting the payments under
16 Schedule 2; correct?

17 A. Correct.

18 Q. All right. To your knowledge, has V&S made all
19 required payments to Philips?

20 A. Yes.

21 Q. And has the hospital reimbursed all of those
22 payments to V&S?

23 A. To my knowledge, yes.

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1 Q. Now, you said before that the old camera, the
2 GE camera, was used for about four or five months;
3 correct?

4 A. Approximately.

5 Q. Did the hospital refer any non V&S patients
6 over to V&S for tests to be performed?

7 A. I don't know the answer to that.

8 Q. But to your understanding, primarily it was
9 used by V&S for their own patients?

10 A. Yes.

11 Q. As they had used it previously?

12 A. Correct.

13 Q. So the total costs that Bradford paid for that
14 four-month -- for the use of that -- or for a piece of
15 equipment that was used for four or five months, it
16 paid the pass through rents for -- it paid the pass
17 through rents to GE?

18 A. Correct.

19 Q. It paid the noncompete payments to V&S?

20 A. No -- well, yes. I'm sorry. Yes.

21 Q. It paid \$2500 a month rental to V&S?

22 A. Correct.

23 Q. Paid a ten percent reading fee?

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1 A. Billing fee.

2 Q. Or billing fee. Associated other costs for
3 minor things, clerical things like that I think you
4 had said?

5 A. Yes.

6 Q. And then it paid \$200,000 to terminate the
7 lease early; correct?

8 A. Not until the Philips camera arrived and then
9 that would have been part of the lease payments.

10 Q. But you did pay that?

11 A. Ultimately, yes.

12 Q. Well, the Philips camera had its own lease
13 payments; correct?

14 A. Yes, but those didn't begin -- the reason that
15 the camera continued to operate in Vaccaro and Saleh's
16 office is that the Philips camera and the arrangement
17 between Philips and GE took longer to accomplish than
18 any of us anticipated. At that point in time, if we
19 had shut the GE camera down, we didn't have the
20 capacity to accept and do the diagnostic work on
21 Vaccaro and Saleh's patients with only one camera.

22 Q. You could have waited four or five more months
23 before entering into the lease agreement.

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1 A. Had we known it was going to take Philips four
2 or five months longer than they said it was going to
3 take them to deliver the camera, that's likely what we
4 would have done. Those decisions were essentially
5 being made every month with Philips saying it will be
6 here next week or the week after that or the week
7 after that.

8 Q. Well, if the Philips camera had gotten there
9 after one month, you still would have had to terminate
10 the GE lease early?

11 A. Oh, absolutely. Yeah.

12 Q. That's a big obligation that the hospital
13 saddled itself with; don't you agree?

14 A. Yeah. \$200,000 to terminate the lease early,
15 you know, that was the agreement that Vaccaro and
16 Saleh had with GE, but that was a hefty price.

17 Q. And that was in addition to your noncompete
18 payments and it was in addition to the pass through
19 payments for each of the two leases?

20 A. Yes. You do understand that there were no
21 payments to Philips either for the pass through or for
22 the termination until they delivered their equipment
23 and we began to use it.

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1 Q. Well, I wouldn't expect there to be any
2 payments for a camera that hadn't been delivered.

3 A. Based on the question you asked, you implied
4 that all three of those were going on at the same
5 time.

6 Q. Your buyout payments are still being made to
7 this day; correct?

8 A. As is outlined in the lease agreement, yes.

9 Q. So essentially you're paying for three cameras
10 right now, correct, the one that you have always had,
11 Vaccaro and Saleh's old camera and Vaccaro and Saleh's
12 new camera?

13 A. The buyout of the GE camera was financed
14 through the Philips lease. So, yeah, those payments
15 continue to go on.

16 Q. Does Bradford have a separate sublease with V&S
17 that specifically identifies the new Philips camera?

18 A. No. The original sublease identified
19 Bradford's ability to specify which piece of equipment
20 it would be.

21 Q. But you weren't changing the camera, you were
22 adding another camera essentially because you're still
23 paying off the old one?

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1 A. We were changing the camera; and in order to
2 change the camera, there had to be a buyout of the
3 existing lease.

4 Q. Why didn't you just lease the Philips camera
5 directly from Philips? Why did you go through putting
6 it in V&S's name and then subleasing it from them?

7 A. To accomplish all the goals that we've talked
8 about all along.

9 Q. But those goals had been accomplished by
10 entering into the original sublease.

11 A. Correct.

12 Q. Why couldn't the hospital just get its own
13 camera several months later and not go through V&S?

14 A. Do you mean end the lease with V&S?

15 Q. Well, you're no longer leasing their camera if
16 you've early terminated the lease; correct?

17 A. I don't know if it could have been accomplished
18 that way.

19 Q. How has Bradford accounted for the buyout, the
20 early termination payments on its cost reports?

21 A. As just that.

22 Q. As early termination payments?

23 MR. MULHOLLAND: If you know.

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1 A. I don't know for sure.

2 (Leonhardt Deposition Exhibit No. 8 was
3 marked for identification.)

4 Q. I'm showing you Exhibit 8 which is an October
5 2nd, 2003 letter to you from Drs. Saleh and Vaccaro.
6 Do you recall receiving this letter?

7 A. Yes.

8 Q. Does it accurately reflect those additional
9 charges that we had discussed previously in connection
10 with keeping the old camera at V&S's property?

11 A. Yeah, I believe so.

12 Q. Are you aware of any other situation where a
13 hospital has entered into a sublease of a piece of
14 equipment that it intends to use only for a few months
15 and thereby incurred an obligation to pay \$200,000 to
16 terminate the lease early?

17 MR. MULHOLLAND: You're asking for his
18 personal awareness, not expert testimony;
19 correct?

20 Q. I'm asking if you're aware.

21 A. No, I'm not aware of any arrangements like
22 that.

23 Q. The equipment sublease provides that the

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1 equipment will remain -- the old GE camera will be
2 transferred to the hospital; correct?

3 A. I'd have to look at it to see that but --

4 Q. I'll show it to you.

5 MR. SIMPSON: This will be Exhibit 9.

6 (Leonhardt Deposition Exhibit No. 9 was
7 marked for identification.)

8 Q. I'm showing you Exhibit 9 which is a copy of
9 the Equipment Sublease. If you could turn to page
10 four, Section 4, Equipment Location. It says,
11 "Subsequent to the execution of this Sublease, the
12 Equipment will be moved to the Sublessee." The
13 sublessee is Bradford; correct?

14 A. Correct.

15 Q. So this agreement does not accurately describe
16 the state of affairs in the four or five-month period
17 after the agreement was executed; correct?

18 A. That's correct.

19 Q. Did you ever give any thoughts to ending the
20 agreement?

21 A. No.

22 Q. When you signed this agreement, were you aware
23 that you would be incurring a 200,000 dollar

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1 obligation to terminate the GE lease early?

2 A. We would have, yes. We would have reviewed the
3 GE lease prior to signing this agreement and we knew
4 what the termination clauses were.

5 Q. Is it fair to say that the hospital both before
6 and after entering into the sublease arrangement
7 closely tracked the referrals of Drs. Vaccaro and
8 Saleh and Jamil?

9 A. We did a series of evaluations that I've talked
10 to you about. We didn't more closely track their
11 referrals on a regular basis than we did anyone
12 else's.

13 Q. So you're saying you didn't track them any more
14 than you tracked anybody else?

15 A. Other than those evaluations that I've talked
16 to you about.

17 Q. In your prior deposition do you mean?

18 A. And today.

19 Q. And today. Did you do any evaluations of their
20 referral patterns in connection with entering the
21 Equipment Sublease or evaluating the Under
22 Arrangements venture?

23 A. We did a series of evaluations as we went

1 through the Under Arrangements.

2 MR. SIMPSON: Mark Exhibit 10.

3 (Leonhardt Deposition Exhibit No. 10 was
4 marked for identification.)

5 Q. I've shown you Exhibit 10 which appears to be a
6 series of e-mails and I'll ask if you -- do you
7 recognize these e-mails?

8 A. Yes.

9 Q. These are e-mails to you -- all of these are
10 e-mails to you; correct?

11 A. Yes, they are.

12 Q. The first one from Glen Washington discusses
13 nuclear medicine revenues as a percentage of total
14 radiology revenues and he says, "I'm still working on
15 Jamil and V&S percentages."

16 And then the second one, which is a little
17 later the same day, says, "V, S and J" -- which I
18 suppose is Vaccaro, Saleh and Jamil -- "order 42 and a
19 half percent of our nuclear studies."

20 And then the third one is -- it doesn't
21 specifically reference them.

22 The fourth page purports to give annual volumes
23 for V, S and J.

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1 So are you saying you did this kind of targeted
2 review of all physicians?

3 A. These are -- if you look at the dates of these,
4 what this says to me is that sometime on March 14th I
5 asked Glen Washington probably for information about
6 that question, you know, what percentage of our total
7 revenues are nuclear medicine and how much is Vaccaro,
8 Saleh and Jamil referring to us. What it says to me
9 is that that's probably the day that someone said to
10 me they're going to start doing nuclear medicine and I
11 was asking the question what kind of impact could that
12 have on us.

13 Q. So you paid closer attention to them because
14 they were --

15 A. At that particular point in time. On a regular
16 basis, no; but had someone come to me and said that,
17 you know, another physician on the staff is going to
18 open an MRI, I would have asked what kind of impact
19 might that have on us.

20 Q. I'm going to show you one more document I
21 think.

22 (Leonhardt Deposition Exhibit No. 11 was
23 marked for identification.)

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1 Q. I've shown you Exhibit 11, which appears to me
2 to be a PowerPoint presentation, and ask if you
3 recognize it?

4 A. Yes, I do.

5 Q. Is this a presentation that was made -- is this
6 PowerPoint for a presentation made to the doctors or
7 is it an internal presentation?

8 A. Presentation made to the medical staff.

9 Q. Okay. So if you'll turn over to page four,
10 page four refers to a Penalty Strategy and a Reward
11 Strategy. So you were using phrases like "penalty
12 strategy" to the physicians that you were wanting to
13 recruit into an Under Arrangements venture?

14 A. Apparently so.

15 Q. Do you know whether this was a presentation
16 made to the doctors or are you just assuming?

17 A. A presentation very similar to this was made to
18 the doctors. Could this have been an earlier draft
19 and the word "penalty" changed at a later time,
20 perhaps.

21 Q. It says "Draft No. 1" on it. So you don't know
22 whether this precise one was used with the doctors?

23 A. I don't know whether this precise one was used.

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1 Something very similar to this was used.

2 Q. All right.

3 MR. SIMPSON: Let's take two minutes.

4 MR. MULHOLLAND: Sure.

5 (Brief recess.)

6 Q. Mr. Leonhardt, I just have a few more things
7 and we'll be done.

8 MR. SIMPSON: Mark this as Exhibit 12,
9 please.

10 (Leonhardt Deposition Exhibit No. 12 was
11 marked for identification.)

12 Q. All right. I've handed you Exhibit 12 which is
13 a March 25th, 2003 memorandum from you to Drs. Saleh
14 and Vaccaro; and I'd just ask, do you recall sending
15 this document?

16 A. I don't recall it, no.

17 Q. That's your signature, though?

18 A. Yes, it is.

19 Q. Do you recall in 2003 Drs. Vaccaro and Saleh
20 asking about their current volumes of MRI and CT tests
21 and how they compare to others?

22 A. Apparently they did, but I don't have any
23 independent recollection of that conversation.

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1 Q. Okay. You have no reason to dispute that this
2 is your document, though?

3 A. No. No, I just don't --

4 Q. You don't specifically remember it. All right.
5 Let me show you Exhibit 13.

6 (Leonhardt Deposition Exhibit No. 13 was
7 marked for identification.)

8 Q. All right. Exhibit 13, the first page is a
9 handwritten document entitled "Top 15 Referral
10 Sources"; and then the following pages appear to be
11 computer printouts supporting this list.

12 A. From which this list would have been generated.

13 Q. Does that appear to be what it is to you?

14 A. Yes, it does.

15 Q. Is this your handwriting on the first page?

16 A. Yes, it is.

17 Q. Do you recall making this document?

18 A. Yeah.

19 Q. So it's ranking referral sources for CT, MRI
20 and nuclear medicine?

21 A. Yes.

22 Q. Do you know where that was drawn from? I mean,
23 how did you identify somebody as being a referring

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1 physician?

2 A. This is information that we have in our
3 diagnostic services area available --

4 Q. So you can --

5 A. -- at anytime.

6 Q. So at anytime you can identify claims where a
7 particular physician was a referring physician for
8 these things?

9 A. Yes.

10 Q. It's not hard?

11 A. Not to get this kind of data, no.

12 Q. It wouldn't be hard to get the actual claims
13 either, would it, because that's where this
14 information had been drawn from; correct?

15 A. This is not hard to get. I'd have to ask
16 someone how.

17 Q. All right.

18 (Leonhardt Deposition Exhibit No. 14 was
19 marked for identification.)

20 Q. All right. Exhibit 14 appears to be something
21 similar to the last one. It says "Top 15 Referral
22 Sources" for January through December '03 and the same
23 three categories, although the first page here is not

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1 handwritten, it's in a slightly different format; but
2 does this appear to be --

3 A. It appears to be pretty much the same thing.

4 Q. Did you prepare or have this document prepared?

5 A. I don't know the answer to that.

6 Q. Does this document ring a bell?

7 A. Yes, it does.

8 Q. Do you know for what purpose it was prepared?

9 A. To evaluate the Under Arrangements proposals.

10 Q. All right. But this would have been prepared
11 after you had already entered into the lease
12 agreement?

13 A. Yeah, it would have had to have been most
14 likely.

15 Q. At the top, that handwritten -- there's an
16 arrow and it says "4/5/04, George." Whose handwriting
17 is that; do you know?

18 A. That looks to me -- I can't be positive, but it
19 looks to me to be Glen Washington's handwriting.

20 Q. Does that maybe mean he gave it to you on that
21 date?

22 A. That very easily could be the case.

23 Q. Were you still trying to put together an Under

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Arrangements venture at that time?

A. Yes, we were.

Q. Then probably the last one is Exhibit 15.

(Leonhardt Deposition Exhibit No. 15 was marked for identification.)

Q. All right. Exhibit 15 appears to be an e-mail from you to Tim Brown on August 31st, '04 asking him to providing you with 18 months nuclear medicine volumes by referring physician. Do you recall this document?

A. No, I don't but --

Q. Do you recall asking Mr. Brown to give you such a list at the end of August '04?

A. I don't have any particular recollection of that, but obviously I did.

Q. Do you know what purpose or why you would have asked him for that?

A. Again, for the same purpose, to evaluate and have information to evaluate a possible Under Arrangements.

Q. When was the last time that the hospital had active, serious discussions with the physicians about an Under Arrangements venture involving nuclear

medicine?

A. Probably 2004.

Q. So the last three, three and a half years it's been off the table?

A. Pretty much so, yeah.

Q. After entering into the lease agreement with V&S, did V&S show any interest in negotiating towards an Under Arrangement venture?

A. Yes.

Q. What actions did you take with V&S in that regard after the execution of the lease agreement?

A. We continued to review it with them and tried to refine our proposal. We continued to try to meet with and talk to other physicians on the staff. On a number of occasions, V&S had conversations with other physicians on the staff explaining why they thought it was a good idea, why they were interested in proceeding.

Q. Did it ever get to the point where draft Under Arrangement documents were being circulated?

A. Do you mean as far as actual agreements?

Q. Yes.

A. No.

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Q. On that point, on the Equipment Sublease, did you have various drafts going back and forth between the parties on the Equipment Sublease?

A. We had various proposals going back and forth and negotiations going on. I don't know that there were various drafts.

Q. Okay.

A. I'm sure at some point there were, but I don't have any independent memory of them.

Q. You don't recall marking up any drafts?

A. No.

MR. SIMPSON: That's all I have.

THE WITNESS: Okay.

MR. MULHOLLAND: We'll reserve the right to read and sign unless you had any questions, Carl.

MR. RYCHCIK: No, I don't.

(Whereupon, the deposition was concluded at 1:10 p.m. and signature was not waived.)

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C E R T I F I C A T E

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF ALLEGHENY : SS.:

I, Carla L. Lennartz, a Notary Public in and for the Commonwealth of Pennsylvania, do hereby certify that before me personally appeared GEORGE LEONHARDT, the witness herein, who then was by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the taking of his oral deposition in the cause aforesaid; that the testimony then given by him as above set forth was reduced to stenotypy by me, in the presence of said witness, and afterwards transcribed by computer-aided transcription under my direction.

I do further certify that this deposition was taken at the time and place specified in the foregoing caption, signature was not waived.

I do further certify that I am not a relative of or counsel or attorney for any party hereto, nor am I otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Pittsburgh, Pennsylvania, on this 10th of April, 2008.

The foregoing certification does not apply to any reproduction of this transcript in any respect unless under the direct control and/or direction of the certifying reporter.

Carla L. Lennartz, Notary Public
in and for the Commonwealth of
Pennsylvania

My commission expires October 29, 2011.

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